UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/C.12/2001/SR.3
30 April 2001

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 24 April 2001, at 10 a.m.

Chairperson: Mrs. BONOAN-DANDAN

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Second periodic report of Venezuela

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.01-41428 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6)

Second periodic report of Venezuela (E/1990/6/Add.19; E/C.12/Q/VEN/1); written replies to the list of issues prepared by the Government of Venezuela (document without a reference number) (HRI/CORE.1/Add.3)

1. At the invitation of the Chairperson, the members of the delegation of Venezuela took places at the Committee table.

2. The CHAIRPERSON welcomed the members of the Venezuelan delegation.

3. Mr. DURÁN (Venezuela) introduced the members of the delegation. He said that Venezuela was in favour of monitoring by the United Nations, through its supervisory mechanisms, of the fulfilment of obligations entered into by States, and endorsed the recommendations for improving the protection of human rights subject to strict compliance with the principle of non-interference in the internal affairs of States. Indeed, Venezuela had frequently accepted voluntarily the competence and jurisdiction of international bodies and mechanisms, agreed to visits by United Nations officials to inspect the human rights situation in the country at first hand, and created a body of law containing mechanisms for bringing to justice the perpetrators, both individuals and groups, of human rights violations.

4. The new Constitution and its legal instruments gave constitutional status to international covenants and conventions and granted citizens the right of appeal to those bodies either individually or in groups.

5. Venezuela had taken and would continue to take an active part in international forums such as the United Nations Commission on Human Rights. The country's re-election to the Commission until 2003 had underlined its support for the creation of the Office of the High Commissioner for Human Rights as a way of streamlining and better coordinating the activities of the United Nations in that sphere. Venezuela coordinated its activities with those of various national governmental bodies with responsibilities in that field. The watchdog role of non-governmental organizations in the promotion and protection of human rights was acknowledged, as required by the Constitution, and to that end the Government had encouraged meetings between the competent government bodies and non-governmental organizations.

6. Venezuela was therefore gratified to be fulfilling its obligations as a State Party to the International Covenant on Economic, Social and Cultural Rights. The consideration of its second report had come at a time of far-reaching social, political and institutional change for the country, where human rights were high on the agenda.

7. The promotion and protection of human rights was one of the fundamental political goals of the Government of Venezuela as it strove to bring about the profound changes the country

needed within a peaceful and democratic framework, and was accorded the highest priority in both domestic and foreign policy. The universal and indivisible guarantee of human rights, respect for human dignity, full realization of human rights and freedoms, the right to life and social justice were considered essential concerns of a State based on the rule of law. The Government had set out to improve observance and application of the norms and arrangements governing them so that all Venezuelan citizens might feel protected and confident that their human rights would be respected and any violation investigated and punished.

8. The redefining of Venezuela had found expression in the new Constitution, which had been approved by popular referendum in December 1999 and embodied norms that brought it into line with the latest developments in international law on human rights, with society's need for justice and with the principles and requirements of the international treaties, convention and covenants which Venezuela had ratified. Those principles could be immediately and directly applied by the courts and other public authorities.

9. Thus the Constitution embodied a large number of rights of an expository character, but it also recognized all those rights and guarantees inherent in the human person that were not expressly set forth in its text but were covered by other laws. In connection with the option available to Venezuelans to invoke the Covenant and the rights set forth in it before the courts, he stressed that the Constitution established the right of every person to enjoy the protection of the courts in the exercise of their constitutional rights and guarantees, including those basic individual rights which were not expressly mentioned in it or in the international human rights instruments. Protection (amparo) was recognized as a guarantee of constitutional right, the purpose of which was to strengthen judicial safeguards for human rights, whether or not they were enshrined in the Constitution or international treaties. It followed that when passing judgement, judges had to take into consideration not only the country's Constitution and laws, but international texts on human rights that had been signed and ratified by Venezuela, including the International Covenant on Economic, Social and Cultural Rights. It was the duty of the Attorney-General's Office to ensure the observance of constitutional rights and guarantees including those set forth in international treaties, conventions and agreements, and to act in proceedings concerning constitutional protection.

10. With regard to economic and social rights, the Constitution established the State's fundamental role as regulator of the economy with a duty to secure all-round human development by creating national value added and sources of employment and to ensure legal safeguards and thereby encourage the domestic and foreign investment necessary to national development and the equitable distribution of wealth. It also established the right of consumers to quality goods and services, and to non-discriminatory treatment.

11. Under the Constitution every person had the right to health, all-round education and adequate housing, which laid upon the State the obligation to pursue policies aimed at a better quality of life, welfare and access to services generally, the creation of a public national health system and system of social security, governed inter alia by the principles of free access and universality, giving priority to preventive health and guaranteeing timely and good quality treatment. It was incumbent upon members of civil society to take an active part in promoting health and working towards the fulfilment of the obligation to ensure hygiene and sanitation, as set forth in the law and in international treaties and conventions.

12. All-round education was the right of every person and the State must create and sustain institutions and services that could ensure access to and continuation in the education system. The new Constitution also embodied the right of all people to adequate, secure, comfortable and hygienic housing with basic essential services and an environment that fostered good neighbourly and community relations; priority would be given to low-income families in the construction and allocation of housing.

13. Cultural values were an inalienable asset of the Venezuelan people and the State would guarantee the conditions, resources, budgets and legal instruments for their development.

14. There were several branches of power under the new constitutional framework: executive, legislative, electoral, judicial and civic. Civic power, an innovation, would be exercised through the Moral Council, made up of the Office of the Attorney-General, the Office of the Comptroller General and the Office of the Defender of the People, which would have responsibility for the promotion, protection and monitoring of all human rights and guarantees enshrined in the Constitution and international treaties, as well as the legitimate collective and individual interests of citizens.

15. Venezuela's new "Magna Carta", innovative in terms of its substantial social content, had explicitly extended the scope of social rights; similarly, it recognized other rights, expressly including all sectors of the population.

16. The fundamental rights recognized in the new Constitution fell into four categories: survival, development, protection and participation. It accordingly emphasized gender equality and recognized other elements of society as having rights that made them eligible for special protection, such as children, adolescents, young people, the elderly and people with handicaps or special needs. Children and adolescents were considered as developing persons with guaranteed rights and obligations attaching to all human beings without discrimination.

17. The Constitution also contained important provisions relating to the rights of indigenous communities: recognition was given to the ethnic and cultural diversity of the Venezuelan nation; the existence of indigenous peoples and communities, their social, political and economic organization, their usages and customs, languages, beliefs and traditions as well as their native rights over the lands and territories which they traditionally occupied were declared inalienable and imprescriptible; the indigenous languages were declared official languages in the federal entities in which they were spoken; the indigenous system of education would be intercultural and bilingual; and the right of indigenous peoples to political participation within the State was recognized. Furthermore, it was incumbent upon the State to define and guarantee the right to collective property in the indigenous territories, the right to education, health, housing, social security, recreation, credit, communications, the marketing of products and technical training with the aim of improving their income and quality of life. The Constitution also conferred powers on the authorities of the indigenous peoples to perform legal and administrative functions in accordance with their usages and customs, provided those did not conflict with the Constitution and the laws.

18. Regarding women's legal status with the proclamation of a Constitution focusing on gender, progress had been made in the recognition of the equality of women. Likewise, the

provisions of the Equal Opportunities for Women Act established that men and women must be equal with respect to the right to work, job opportunities, remuneration and social security. That was reflected in greater participation of women in all spheres of society.

19. The Venezuelan Constitution had thus laid the foundations of the country's political order within which absolute respect for human dignity, for the inherent rights of the individual and for the free development of the personality was accepted as a basic tenet of a State founded upon justice.

20. At international level, Venezuela was endeavouring to base the handling of economic matters upon an open, just and equitable system oriented towards development and non-discrimination, upon international cooperation at all levels, and upon the attainment of a New World Human Order.

21. Thus the foundations had been laid in Venezuela for extending the opportunities open to individuals and eliminating disparities through the eradication of poverty, better educational opportunities and other social services, expansion of productive employment and promotion of social integration. The economic goals thus served to promote the all-round development of citizens, while at the same time furthering the country's integration into the global economy. The main thrust of the Government's programme was economic, social, territorial, international and political equilibrium with emphasis on the fight against poverty and the welfare of the population as a whole. Recovery was evident in all areas of the economy, with the GDP showing an upward trend both in the public and in the private sectors, and signs of a positive impact on the job market and on employment.

22. The CHAIRPERSON invited Committee members to make general comments relating to the delegation's opening statement.

23. Mr. SADI asked what impact the Covenant, which had been in force in Venezuela for 23 years, had had on the country.

24. Mr. DURÁN (Venezuela) replied that the impact of the Covenant had been far-reaching, culminating in the promulgation in 1999 of the new Constitution embodying not only the rights set forth in the Covenant but others as well, which had brought about an improvement in economic, social and cultural rights.

25. The CHAIRPERSON invited members' comments on Venezuela's answers concerning numbers 1 to 3 of the list of issues (E/C.12/Q/VEN/1).

26. Mr. CEAUSU asked how the provisions of article 123 of the Constitution were to be implemented, particularly regarding the participation of indigenous peoples in the national economy and in the elaboration, execution and management of training programmes and in defining their own priorities. Further, he sought clarification on the substance of the organic laws on indigenous peoples. Would indigenous peoples under the provisions of those laws have the right to organize themselves and to set up their own bodies through which to define their own priorities and programmes? Would they have true representation and be able to organize their

own economic, social and cultural affairs, and did the authorities encourage them to participate in political and social life and to set up their own mechanisms for dialogue with the Government?

27. Mr. KOUZNETSOV asked whether the special legislation on indigenous peoples provided for under the Constitution had already been adopted and, if so, what changes it had brought about in the situation of the half a million indigenous people in Venezuela.

28. Mr. AHMED asked whether the draft legislation took account of the wishes of indigenous peoples regarding group rather than individual title to land, whether it gave them a say about the invasion of their territories by large mineral and gold mining companies, and whether it addressed the needs expressed by indigenous groups themselves.

29. Mr. TEXIER said that, according to the Society for Threatened Peoples, Presidential decree No. 1850 of 1997 regulating land use in the Imataca Forest reserve was exacerbating the situation of the indigenous inhabitants of the area. He wondered whether indigenous peoples' traditional land rights were being respected and what impact the decree would have on their way of life and, in particular, their health: 80 per cent of them were said to suffer from malaria, for example.

30. He wondered what the situation currently was with regard to agrarian reform. What was the current distribution of land? Venezuela was more urban than rural, but, as in Latin American countries in general, there remained large private estates (latifundios) and he wondered whether land was still as unequally distributed.

31. Mr. SADI said that he did not wish to encroach on other treaty-monitoring bodies' jurisdiction, but human rights were indivisible and it was therefore important to take account of what other committees said. He wondered how Venezuela viewed indigenous peoples from an overall legal perspective: were they treated as a minority within the meaning of article 27 of the International Covenant on Civil and Political Rights? If so, was Venezuela aware of the Human Rights Committee's General Comment No. 23 on article 27?

32. Mr. ATANGANA asked whether, when the State party had said land reform legislation was currently before the National Assembly, it had meant it was actually being discussed or simply that the draft legislation had been presented to the Assembly?

33. Mr. MARTYNOV said that, if he correctly understood the Government's answer to question 1 on the list of issues, there were 28 indigenous groups in Venezuela and 14 of those accounted for 97 per cent of the total indigenous population. If the other 14 groups accounted for only 3 per cent, did that mean their numbers were declining? If so, was there any government programme to ensure their survival?

34. Mr. DURÁN (Venezuela), in answer to Mr. Martynov, said that those indigenous groups were not declining in numbers and that a comprehensive plan for health, education and social development was in place in Amazonas, Delta Amacuro and Zulia, the states with the greatest percentage of indigenous peoples. Under the Constitution, indigenous peoples were guaranteed representation in the National Assembly and a permanent commission of indigenous peoples'

representatives in the Assembly had been coordinating the drafting of the new legislation on indigenous peoples. Thus, indigenous peoples were protected not only by constitutional guarantees but also by legal mechanisms implementing the Constitution.

35. With regard to agrarian reform, the draft Land Act had been introduced in the National Assembly early in 2001 and was currently being discussed. The legislation aimed at a better distribution of land and dealt with property rights, including indigenous peoples' collective property rights. It represented an attempt at explicitly implementing article 123 of the Constitution.

36. The aim of all the new legislation currently being considered was to control the impact on indigenous peoples of economic activities such as those mentioned by Committee members in their questions, particularly in Amazonas state.

37. Ms. LÓPEZ DE PENSO (Venezuela) said that new legislation on indigenous peoples' culture and land defined their rights to ancestral lands as inalienable and non-negotiable. It was a basic principle of the new Constitution that indigenous peoples should be consulted on issues relating to logging and mining. Recently, they had taken part in the process of granting authorizations in connection with a major power line project, in accordance with all political, economic and social agreements.

38. Mr. SALTRÓN (Venezuela) said the Office of the Defender of the People was a new institution established in the 1999 Constitution. According to the Constitution, article 280, its function was to promote, monitor and defend human rights, not only those enshrined in the Constitution but also those contained in international covenants and treaties. Article 281, paragraph 8, made it responsible for monitoring, protecting and guaranteeing the human rights of indigenous peoples. There were special offices with indigenous staff in the border states, where most indigenous peoples lived. They reported all allegations of human rights violations to the Office of the Defender of the People, who then investigated the matter and imposed sanctions on public institutions found guilty of such violations.

39. Concerning indigenous peoples' collective land rights, under article 126 of the Constitution indigenous peoples were an integral part of the Venezuelan State. The term "people" could not be interpreted in the same way as when it was used in international law. Indigenous peoples' culture, customs and education were guaranteed, but they were subject to the laws of the State and could not become autonomous or independent.

40. In the case of Imataca and the power line to Brazil, indigenous people had been given constitutional guarantees. They had put their case in the Supreme Court, and the Court had ordered an environmental impact assessment to be carried out. The Office of the Defender of the People was coordinating the study.

41. Mr. SADI wondered how extensive gold mining was in the areas inhabited by indigenous peoples, and whether cyanide was being used for gold extraction in any of those areas.

42. Mr. DURÁN (Venezuela) answered that cyanide was indeed being used in mining, which polluted the water, and there was a problem of deforestation. However, the Government was concerned and had taken measures to try to control such irrational pollution, notably the decree regulating the Imataca Forest reserve.

43. Mr. HUNT asked the delegation to clarify whether Venezuela had an independent national human rights institution that conformed to the Paris Principles of 1991, with a mandate to promote and protect economic, social and cultural rights.

44. He understood that Venezuela had developed a national plan of action on human rights, in accordance with the Vienna Declaration of 1993. The plan had been approved in 1997 and adopted in 1999. He asked what its current status was and what was being done to implement it. Might Venezuela consider approaching the Office of the United Nations High Commissioner for Human Rights for technical assistance with regard to the economic, social and cultural rights elements of the plan?

45. The delegation had stated in introducing the report that the eradication of poverty was a matter of high priority. Did the Government believe the Covenant had a role to play in the formulation of anti-poverty strategies? Did it believe that specific economic, social and cultural rights could reinforce such strategies?

46. Mr. MARCHAN-ROMERO, referring to the Government's written reply to question 4 in the list of issues, asked the delegation to clarify what was meant by "general or collective interests" (intereses difusos o colectivos), which was to him a novel concept distinct from rights, and to explain the fact that the Supreme Court appeared to have jurisdiction over such interests. Such general interests were doubtless of importance to Venezuelans, but the Committee was interested to know whether individual economic, social and cultural rights were given sufficient weight in the legislation to be invoked directly by individuals.

47. Mr. TEXIER observed that the creation of the Office of the Defender of the People had been a progressive step, but he wondered how independent it was from the Government and the Head of State. An interim appointment had initially been made, it appeared, and then the National Assembly had appointed a new Defender.

48. What powers did the Defender have in respect of violations of economic, social and cultural rights? Could a trade union or an individual, for example, address the Defender directly, and if so, what action could the Defender then take?

49. With regard to NGO involvement in the preparation of the report, he asked whether the NGOs had seen the State party's report in time to be able to formulate opinions.

50. The Committee's work was of use only if it produced results, and the involvement of civil society was important in getting results. When the Committee had completed its consideration of the report and issued its recommendations, did the Government intend to involve trade unions and NGOs, for example, in the implementation of those recommendations?

51. Mr. MALINVERNI asked whether Venezuelan courts regarded the Covenant as directly applicable, in the same way as the International Covenant on Civil and Political Rights. With regard to the links between constitutional guarantees and the rights guaranteed under the Covenant, what position did the courts take in the event that the Constitution treated a given guarantee differently from the Covenant? Did they apply the principle that the more favourable treatment would prevail?

52. He wondered to what extent it was in fact possible to invoke the Covenant in court. Could an indigenous person, for example, address the court in his or her own language? Could a person receive legal aid when bringing a case of alleged violation of economic, social and cultural rights? Lastly, he wondered what the role of the Defender of the People was in that regard.

53. Mr. RIEDEL asked the delegation for its views on the adoption of an optional protocol to the Covenant.

54. Mr. AHMED, referring to item 7 of the list of issues, asked what specific steps the Government had undertaken to inform the community about the Covenant and its implications. The 1999 Human Rights Report had alleged that the Government had made little effort to enforce its own 1993 law on that subject or, indeed, to protect the rights of certain vulnerable groups. A case in point was its failure to provide adequate access to parks, buildings and public transport for the disabled, as it was bound to do under the 1993 law.

55. Mr. SALTRÓN (Venezuela) explained that the Office of the Defender of the People had been established under the 1999 Constitution as an autonomous body and, together with the Comptroller-General's and the Attorney-General's Offices, provided citizens with a measure of control. Like the last two, it enjoyed total administrative and financial independence and would soon be endowed with its own law, which was shortly to be debated in the National Assembly. The holders of those three offices were elected from lists submitted not by the Executive, but by civil society, and any Venezuelan could apply. The election process was highly transparent, with applicants selected and vetted by a national committee, comprising members of civil society, that submitted a short list to the National Assembly, which in turn elected them by a two-thirds majority. During the transition, those three officials had been elected as an interim measure by the Constituent Assembly for the period from December 1999 to December 2000.

56. Prior to the establishment of the Office of the Defender of the People, a national human rights institution had been created by Executive Decree in 1994, and comprised representatives of the Executive Branch and of NGOs. That institution had submitted to the country a national human rights plan of action, in accordance with the Paris Convention. Although, with the creation of the Office of the Defender of the People, the Commission had lost its raison d'être, it maintained close relations with all the country's NGOs. Any citizen, NGO or trade union could lodge complaints of human rights violations with that Office. When the Confederation of Workers of Venezuela (CWV) had complained that the trade-union referendum violated freedom of association, the Office had decided that it might well violate certain constitutional articles, although the Supreme Court had later ruled otherwise.

57. Most Latin American populations were unfamiliar with their countries' Constitutions, let alone the rights bestowed on them by the international covenants. And yet the Venezuelan Constitution was in advance of those covenants. Its article 23, for instance, deemed international human rights treaties, pacts and conventions ratified by Venezuela to have constitutional status and take precedence over domestic law, insofar as they contained provisions more favourable to the laws of the Republic and the exercise of constitutional rights. The courts and other law and order bodies were required to enforce them immediately and directly. Venezuela went even further: under article 27 of the Constitution, anyone could appeal against a Supreme Court decision before an international tribunal.

58. Under the Constitution, collective and general (difusos) rights were the purview of the Office of the Defender of the People, as confirmed by the case law of the Supreme Court. The Office was always represented in courts hearing cases relating to such rights. Replying to another question, he said the Office had approached the Organization of American States and the World Bank for funds for the country's human rights promotion bodies. Plans were also afoot to launch a campaign to familiarize people with their rights and to encourage them to file complaints, which was not a normal feature of Venezuelan civic behaviour.

59. Ms. LÓPEZ DE PENSO (Venezuela) said that the Attorney-General's Office was the guarantor of the rights of the indigenous peoples, who had the right to an interpreter in their native languages in court trials. Anthropological studies had been conducted, the advice of indigenous elders sought, and customs and traditions taken into account in the event, for instance, of imprisonment.

60. Article 62 of the Constitution decreed that all Venezuelan citizens had the right to participate freely in public affairs directly or through elected representatives, although the Government aimed to promote direct participation with a view to all-round individual and collective development. To that end, the Ministries of the Interior and of Justice had recently organized an interagency meeting with representatives of the principal ministries and many NGOs, at which decisions concerning NGOs had been taken on the basis of their own specific proposals. Many of them were represented on the organizing committee for a national "neighbourhood" meeting on community participation in the administration and monitoring of public affairs in June 2001. The national human rights institution, created by presidential decree in 1998, was chaired by the head of the Secretariat of the President of the Republic, and included representatives of several NGOs.

61. Ms. FRANCIA (Venezuela) said that article 23 of the Constitution endowed all conventions and pacts ratified by Venezuela with constitutional status, making them an integral part of domestic legislation. The country's entire corpus of legislation was being constantly reviewed to bring it into line with the principles enshrined in the new Constitution and in the treaties and conventions in the process of incorporation. The courts were required to disregard any law that conflicted with the Constitution. Prior to the drafting of the new Constitution, constitutionality had been monitored through article 20 of the Code of Civil Procedure, which empowered courts to disregard such provisions. Currently that mandate for the courts was contained in article 334 of the Constitution.

62. Ms. TORRES DÍAZ (Venezuela) said that under article 83, paragraph 3 of the Constitution, in the event of a conflict the provision offering most protection to the worker was the one applied. One example was the 1997 reform of the 1990 Organic Labour Act, which had abolished the minimum age for joining a trade union.

63. Mr. DURÁN (Venezuela), at the suggestion of the CHAIRPERSON, said the delegation would defer for a subsequent meeting its answers to questions relating to national human rights plans of action and institutions, and the role of the Covenant in eradicating poverty.

64. Mr. HUNT thanked the delegation for its clarification regarding the autonomy and independence of the Defender of the People. He was, however, still unclear about the extent to which those quasi-human rights institutions dealt specifically with economic, social and cultural rights. To be blunt, did they receive the same attention as civil and political rights?

65. Mr. KOUZNETSOV said that the successful defence of human rights depended on the judicial system. Although the World Bank was indeed financing judicial reform, the process had been far from smooth, conflicting views having being expressed by the Supreme Court of Justice and the Council of State. What had been the results of the judicial reform? Did all Venezuelans, including the indigenous population, enjoy free access to the courts and to information on the workings of the judicial system?

66. Mr. PILLAY, noting the delegation's assertion that the provisions of the Covenant enjoyed the same status as constitutional rights, asked how the latter were enforced in the courts. While the right to food security and protection from hunger had been incorporated into the Constitution, the organization FIAN International had suggested that the situation might soon be improved by means of a national law. Was a special law, then, necessary for that right to be justiciable? Did the same situation prevail for Covenant rights? He sought an explanation of the information supplied by FIAN International that in October 2001 the Supreme Court had admitted a case concerning the rights of indigenous peoples, not on the grounds of those rights, which were enshrined in the Constitution, but on the grounds of environmental laws.

67. Mr. DURÁN (Venezuela) confirmed that World Bank resources were still being used for the reform of the structure of the judicial system. Replying to Mr. Pillay's question, he said that no special law was required for the justiciability of constitutional laws. As stated earlier, all rights stemming from an international covenant or convention were recognized by the Constitution and would have supremacy.

68. Ms. TORRES DÍAZ (Venezuela) said that the purpose of the reform was to guarantee equal access to justice for all Venezuelan citizens. The judicial system had previously been expensive and all court actions had had to be paid for. The new Constitution contained important principles ensuring that no distinction was made among the guarantees offered to all Venezuelans. It established that justice had to be free of charge. Those unable to pay lawyers could make use of the public defenders in various sectors. Under the judicial reform, new courts specializing in a variety of special areas were being established, and the judicial process was becoming more flexible. The new Penal Code afforded more immediate access and made the judicial process faster and less cumbersome. Comprehensive draft labour legislation was being

prepared and would afford immediacy and conciseness in order to resolve, rather than create, problems. Also, in the quest to transform the judicial system, the Supreme Court was dealing with all provisions that were not consonant with immediate access.

69. Mr. PILLAY said that, despite the delegation's assurances that Covenant provisions and constitutional rights were both enforceable, the FIAN report had claimed the opposite. Given that people might be unaware of their rights, as the delegation had itself admitted, what role did the national and regional authorities and the Defender of the People play? What concrete action was the Government taking for the genuine exercise of constitutional rights, especially those of the more vulnerable groups?

70. Mr. SALTRÓN (Venezuela) replied that, although the Office of the Defender of the People had been established in 1999 as the guarantor of human rights, in practice there were offices in each state, to which people had recourse in the event of violation of all rights, including the rights to health, education and housing. The task of the Defender of the People was, therefore, to monitor the proper functioning of the public services, such as labour, education and health, which had been the subject of most of the 16,000 complaints received in 2000. The people did have an institution to which they could turn for the protection of their economic, social and cultural rights.

71. Ms. LÓPEZ DE PENSO (Venezuela) said that it was important for Venezuela, as one of the human rights leaders in Latin America, that international conventions and covenants should be immediately, directly and permanently enforced by the courts and the forces of law and order. While Venezuela, during its transition period, had not yet brought all its domestic legislation into line with the Constitution, the voices of all citizens were nevertheless heard. The Government was also deploying sterling efforts with regard to hunger, viewing food not only as a material right but also in its cultural dimension.

72. Mr. DURÁN (Venezuela), responding to the question regarding the role of the Covenant in the strategy for eradicating poverty, said that many of the social rights enshrined in the Covenant were part of the national strategy adopted. Venezuela had incorporated those rights in various social programmes which related directly to the issue of food, on the subject of which information was provided at national level and by NGOs. A prominent body in that area was the National Nutrition Institute (INN). Questions of food and nutrition must be considered in the context of Latin America as a whole and great efforts had been made in that regard in Venezuela, for example by the National Food Council. Similarly, a presidential food commission had also been set up to offer support at national and local levels. Programmes establishing popular eating places in local communities had been introduced by the INN. Two years previously a maternal breastfeeding programme had been set up by the Ministry of Health and Social Security within which stocks of milk were supplied for mothers and children. Basic education programmes were also provided to improve nutrition and the food situation in general.

73. Ms. HANSON (Venezuela) added that a food programme was in place at the pre-school and basic education level for children up to the age of 12. Although the implementation of the programme depended on the location of individual schools, on average between 25 and 75 per cent of children's daily calorie needs were supplied. In addition, a new comprehensive care programme had been introduced in 1999, which provided schoolchildren

with food on a daily basis and also medical and psychological care. In relation to hunger, effective action was being taken in the form of general programmes, although the Government could not physically guarantee that all children received the necessary calorie intake.

74. The CHAIRPERSON said that rather than requesting details of specific food programmes, the Committee wished to know what the role of the Covenant was in the eradication of poverty in Venezuela. What laws and constitutional provisions were still to be adopted in that regard?

75. She requested the Venezuelan delegation to respond to Section II of the Committee's list of issues relating to the general provisions of the Covenant (questions 9 to 12).

76. Mr. DURÁN (Venezuela), responding to question 9 of the list of issues, said that no complaints had been received by the Defender of the People regarding infringement of the physical rights of indigenous people. Specific efforts had been made to introduce comprehensive health, social development and education programmes in border areas which were mainly populated by such peoples. Regarding question 10, the State provided indigenous communities with protection, in accordance with the national Constitution and ILO Convention No. 169: Indigenous and Tribal Peoples, 1989.

77. Turning to question 11, he said that in 1999 Venezuela had given special attention to the repercussions of the torrential rains experienced at that time. Special State assistance funds had been earmarked and international organizations had provided support to counter the effects of the rains and to improve the distribution of compensation in the form of housing and education. A broad plan to help people find work in the affected areas was currently being developed. As to equal rights of men and women, article 5 of the 1999 Constitution guaranteed equality of opportunity and non-discrimination against women. Similarly, article 6 of the Constitution provided for the existence of laws and regulations, the spirit of which ran counter to the primacy of men over women. Great efforts were being made to overcome the discrimination against women resulting from traditions and local idiosyncrasies. Legislation currently being adopted contained a series of provisions indicative of the State's determination to ensure equality of opportunity in all economic, political and social fields.

78. Mr. HUNT asked whether any reliable current data were available concerning domestic violence. Did public information campaigns exist to combat it and what was the legal framework adopted? He wondered what specific powers courts possessed to deal with such violence and whether the State or civil society provided shelters or refuges for the victims.

79. Mr. TEXIER (Country Rapporteur) noted that the subject of the right to asylum and refuge had not been broached in the Venezuelan report. Although article 69 of the Constitution recognized the right to asylum and refuge, the country had not ratified the 1951 Convention relating to the Status of Refugees. Nor had it ratified the Convention relating to the Status of Stateless Persons (1954) or the Convention on the Reduction of Statelessness (1961). Where refugees were concerned, it was reality that mattered and their exact situation should be clarified. Although the National Assembly was drafting a basic law with the help of the United Nations High Commissioner for Refugees (UNHCR) and NGOs, and though there were not many refugees in Venezuela, problems nevertheless existed in regard to Colombian nationals fleeing

their own country in fear for their safety. A number of such cases had been brought before the Interamerican Human Rights Commission, which had made some recommendations on the situation of 287 Colombian refugees in a Venezuelan village. What had been done about those recommendations which specified that the refugees in question should not be sent back to their own country? Further, did the Venezuelan authorities envisage ratifying the international instruments he had referred to concerning refugees and stateless persons?

80. Ms. BARAHONA-REIRA said that the existence of a legal instrument, i.e. the new Constitution, which extended the gender perspective was of great importance. Regarding the law on equality of opportunity for women, she wondered what institution existed for ensuring that it was applied, and what degree of legal and financial autonomy that body had? The delegation had acknowledged that reform of the Penal Code was necessary, since some of its provisions violated the fundamental rights of women. What fundamental innovative rules were being adopted to eliminate discrimination against women? Did a specific law exist to combat domestic violence and had reform of the Penal Code been envisaged in that regard? Fourthly, the rules for access to property and land for women should be clarified. Were any changes likely to be made? In Latin America in general, indigenous communities often had collective ownership of properties through their families or under group systems. What was the exact situation in Venezuela?

81. Mr. THAPALIA, quoting a 1999 report by the State Department Human Rights Board of the United States of America, said it appeared that in Venezuela, although the law prohibited discrimination based on ethnic origin, members of the country's indigenous population frequently suffered violations of their rights. They were also commonly refused access to basic health and education services and were exposed to high risks of cholera, malaria and other diseases. Likewise, the 1993 law passed to protect the rights of disabled people was largely ineffectual in that no significant efforts had been made to implement its provisions, inform the public of it or change society's prejudices towards the disabled. Concluding observations to similar effect had been made in 1997 by the Committee on the Elimination of Discrimination against Women (CEDAW) which had expressed concern that Venezuela had made little real progress in implementing the relevant Convention and had not responded effectively to problems such as domestic violence, female illiteracy and discrimination in the workplace. In view of the problems which obviously existed, what was the status of women in Venezuelan society in relation to equality of opportunity, domestic violence and educational opportunities? What measures had been taken by the Government to eliminate de facto and de jure discrimination against women, the disabled, indigenous populations and refugees?

82. Furthermore, following the establishment of the National Women's Council (CONAMU) in 1992, what specific recommendation had been made regarding the promotion of women's scientific knowledge and literary and artistic expression as a means to their attainment of full equality?

83. Mr. PILLAY expressed great surprise that no complaints had been received from members of indigenous communities about discrimination. According to a statement made by the Society for Threatened Peoples to the Commission on Human Rights, the National Constitution of Venezuela established equality before the law but had unfortunately been used as an instrument to encourage discrimination against indigenous people. The State refused to

acknowledge the specific rights of indigenous people as a distinct group. In that regard, the delegation should be aware that the prohibition of discrimination was of immediate application and that laws and specific measures could easily be enacted by the State party to that effect.

84. Mr. MARTYNOV said that very few indigenous people actually owned land since they preferred collective to individual ownership. He wondered whether there was any legal possibility for indigenous people to establish group ownership or any established practice for allocating land to such communities.

85. Mr. RODRIGUEZ CEDEÑO (Venezuela) said that national policy in relation to internally displaced persons and people from other countries was based on the 1951 Convention Relating to the Status of Refugees. A clear distinction should be drawn between internally displaced persons and refugees from other countries, since their respective situations were very different. The States where refugees seeking asylum were moving were legally competent to deal with the matter, but of the 100 million internally displaced people in the world 25 million were under the protection of UNHCR.

86. A meeting had recently been held in Venezuela with a view to defining the policy for dealing with asylum requests and to setting up a national committee responsible for producing appropriate legislation. Venezuela had also chaired the UNHCR Executive Committee for two years, during which time it had sought to promote the rights of internally displaced persons and refugees. The need for regulation in relation to such individuals was very clear from the 1951 Convention, and Venezuela's national policy on the matter was equally clear.

87. Mr. SALTRÓN (Venezuela), responding to the question regarding the Colombian nationals who had crossed the border into Venezuela, said that those refugees had been given suitable food and shelter and had been granted asylum. None of them had been expelled. The border between the two countries was in fact very permeable, with workers crossing in both directions and people seeking temporary refuge in one or other country. Currently 187 cases of victims of violent persecution were being dealt with and their asylum applications processed.

88. Mr. DURÁN (Venezuela) admitted that few reliable and up-to-date statistics existed on domestic violence. A National Women's Institute had been set up recently and had taken a series of measures to provide relevant data on that problem and on all features of the National Plan for Women which would become an integral part of the National Statistical Plan, thereby providing up-to-date figures. The Institute in question was responsible for applying rules and regulations relating to women's rights, including the initiation and implementation of the National Plan. A series of campaigns had also been organized with local authorities and representatives of civil society to raise awareness of the various aspects of women's rights. Some State health centres had reception facilities for female victims of domestic violence.

89. Ms. LÓPEZ DE PENSO (Venezuela) said a law on violence against women and the family had recently been introduced. In view of its recent enactment, it had not yet met all expectations. It had, however, made provision for ad hoc prosecutors and set up a directorate for the protection of minors' rights which, in case of complaint, established an initial stage of

conciliation between the parties. If that was unsuccessful, further enquiries were instituted. Initially, it had been thought that violence was committed mainly by men against women. However, in many cases, it had been found that men had been forced to leave their homes. Above all, Venezuela recognized the need for equality before the law in accordance with the Constitution.

90. Finally, in answer to the question on refuges for victims of domestic violence, the new law provided for such facilities and the government bodies concerned would take steps to establish them.

The meeting rose at 1 p.m.